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DECLARATION 37 C.F.R. 1.131 & 1.132

Application: 10,679,075

EXHIBIT-D SHOWS SCALE MODEL ROOF COMPOSITION OF MATTER AND SYNERGISTIC FUNCTIONALITY, THE CARPORTS STRUCTURAL LAYOUT, PLACEMENT AND CONFIGURATION FOR PATENT EXAMINERS CONSIDERATION FOR THIS ENERGY GENERATING SHELTER SYSTEM AND METHOD.

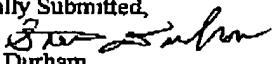
I, Steven Durham, Inventor have conceived then reduced to practice said invention: ENERGY GENERATING SHELTER SYSTEM AND METHOD; including novel structural embodiments and novel placement's of the device thereof, configuring said invention to be structurally unobtrusive and placed in such a manner as to provide substantially unobstructed ingress and egress to a sheltered area, (laterally placed), and indirectly mounted to a parking space, regardless-of-where-the vertical-lateral-support-or-support's-are-located-in-parking-lot-, relative to a vehicle, within a safe distance to a sheltered area from said vehicle; and known to be labeled as: laterally placed, indirectly mounted to parking space and permitting unobstructed access. Furthermore, I also conceived and reduced to practice said carport roof to include various novel embodiments, whereby the carport roof acts as a synergistic photovoltaic canopy with an included OLED and-LED panel and/or layers configured to be contained "in" or placed "there-under" the photovoltaic carport roof panel and conserve energy when the composition of such layers or panels are in direct proximity to each other, and act as an Information Display simultaneously via the Electroluminescent LED and/or OLED layer/panel composition of matter, with said photovoltaic carport roof conserving energy when powered up.

A unique feature of the structural design and placement is shown in EXHIBIT D, and described in the application/invention and shown in (Figure 10), where the placement of the vertical-column support which is indirectly mounted from the parking space and forward-laterally placed, as shown in patent Figure 10, and; in relation to a parking space is also attached and shown in Exhibit D, (for visual example purposes only).

The examiner is advised to please consider said Scale Model and it's placement, as reduction to practice with continual improvements over the years to such structural-placement and embodiments features, since it's conception dating back to 1997 and updated (tinkered with) continuously. Application (10,679,075) shows in Figure 10 and Figures 1, a parking lot, parking space and configuration of sheltered vehicle relative to the vertical column support and photovoltaic canopy and is comparable to the enclosed Exhibit D, in it's placement, function and structural configuration, indirectly placed from a parking space which shelters a vehicle permitting unobstructive access when configured as such. The examiners attention is respectfully relevant to the witnessing of the inventions actual layout in this perspective relevant to this novel aspect of the inventions unique embodiment and ask his consideration for allowance for all the patent claims submitted this far with this application, which collectively show alternative embodiments of the claimed invention, respectfully.

I Steven Durham the named inventor, understands that any willful and false statements and the like are punishable by fine or imprisonment, or both under (18 U.S.C. 1001) and may jeopardize the validity of the application or any patent issuing thereon. The declarant and named inventor herein, Steven Durham is declaring "swearing back" that the invention being claimed in application (10,679,075) which stems from application had been conceived and reduced to practice starting at conception dates (1997-2000) and still continues to be configured for other various novel functions, placements and structural configurations.

Respectfully Submitted,


Steven Durham

Swan & Son 1997-3000©

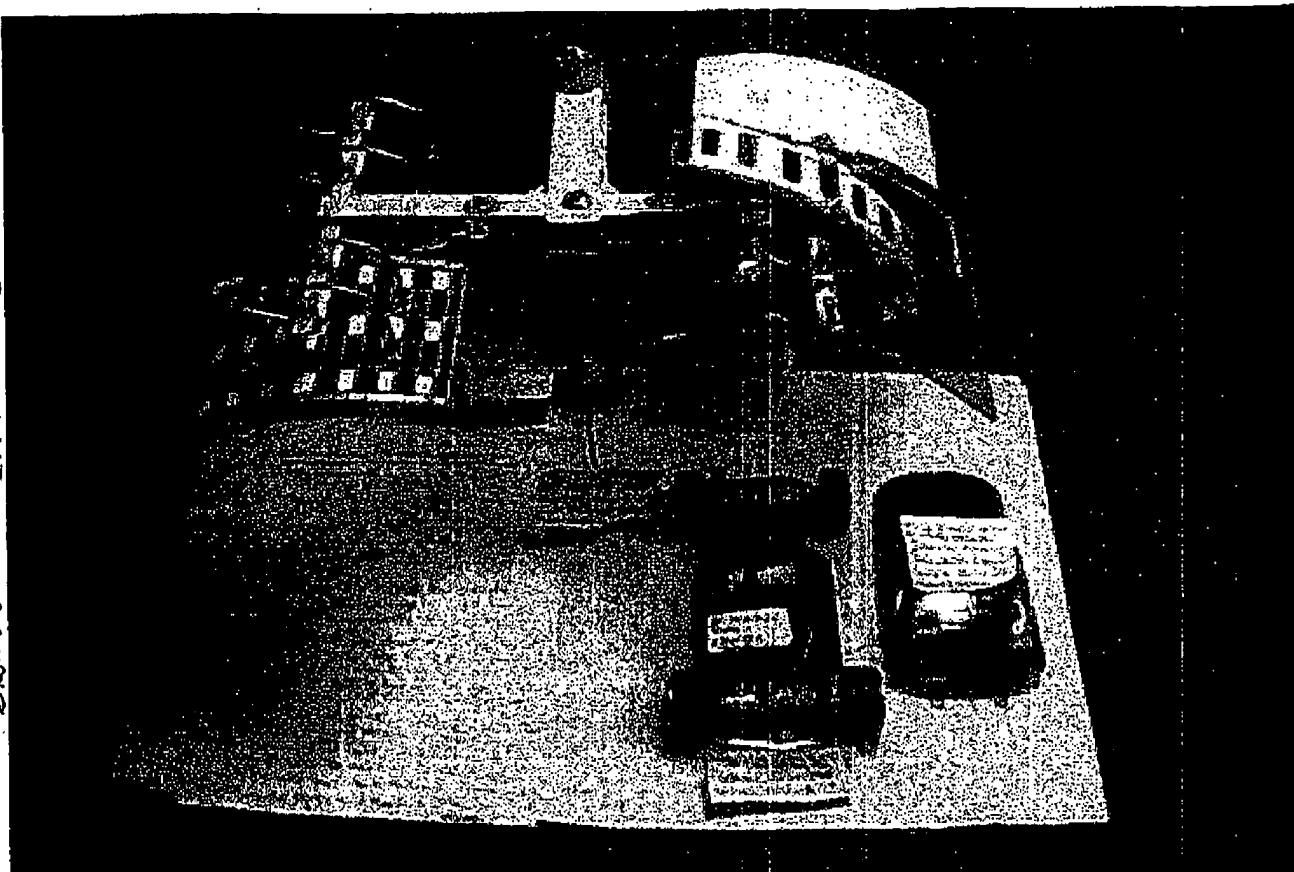


Exhibit D

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December 21, 2007

Mr. Steve Durham
Ponte Vedra, Florida

Re: Supplemental 37 CFR 1.132 Declaration for Durham Patent for Energy Generating Shelter System and Method (Patent # 11,438,195)

Dear Mr.:

I am a licensed Structural Engineer with experience in commercial and residential structural projects. My educational background consists of a Bachelor's Degree in Civil Engineering and a Master's Degree in Civil Engineering from Cornell University. I have reviewed Mr. Durham's patent applications and compared them to the previous art/patents for Dinwoodie, Lane, Saunders, and Kowalski.

In addition to above patents, I have also reviewed Mr. Durham's scale model examples and respectfully am making the examiner aware that Mr. Durham's invention is not a combination of prior art or obvious in comparison to the cited prior art.

Listed below are the reasons, I believe Mr. Durham's patent is not obvious or combinations of prior art and believe that Mr. Durham's patent (#11,438,195) is clearly distinguishable and unique from any of the prior art by the unique structural placement and configuration of the vertical lateral support column shown in patent Figure 10 which shows his vertical column support laterally positioned and in a longitudinal plane of the parking space and unobtrusive in this respect.

On the other hand, the same vertical support column is horizontally positioned, yet still laterally facing the longitudinal plane of the parking space and is still quite uniquely positioned in this respect. The Horizontal placement and positioning of the structural support at the front of the parking space in Figure 10, makes Mr. Durham's carport even less obstructive because the positioning of the vertical column support is further away from the car side door panel and has less of a chance of obstructing the coming and going of parking vehicles.

My opinion as a Structural Engineer should help to resolve any previous misunderstandings, or misinterpretations the patent examiner may have had when he reviewed all the prior art and I also have reviewed previous patent claims submitted by Mr. Durham's previous attorney James Ryndak, whereby the examiner had overlooked the unobtrusive element of Mr. Durham's unique patent claim as well as the unique placement, structural configuration and arrangement of the lateral vertical column support column being "Laterally spaced past the edge of the canopy, so as to permit substantially unobtrusive access to the sheltered area."

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This aspect clearly distinguishes Mr. Durham's invention structurally and placement-wise of the vertical lateral support column from any of the cited prior art patent descriptions/disclosures, ornamental features or any carport placements of the previously cited patent shelters, carports canopy or shading devices. I also note that Mr. Durham's invention is not an obvious combination of solar panels and carports and is not inherently obvious.

By clearly pointing out to the examiner the (Currently Amended) embodiment of newly submitted claims 1 and 2, (system and method claims) the patent examiner should not overlook the fact that placement of the lateral vertical support column being laterally spaced safely "away" from the parking space is unique compared to the prior art and that the distance of lateral column support from a motor vehicle is separated by a unique parking stripe creating a borderline showing a definite distance and separation away from the vehicle's body panels and front bumper by using this laterally placed vertical support no matter which direction the vertical lateral support is placed or set in a parking lot. The parking stripe in patent drawing Figure 1 and 10 show's Mr. Durham's clear boundary away from a vehicle by using this lateral vertical support and distinguishes it from the prior art ornamental design's or utilitarian functions or features.

Mr. Durham's lateral-vertical support column mounted indirectly to a foundation "away" from a parking space and laterally positioned and away from a parked vehicle capture's this inventions true unique unobstructive design feature and placement of the vertical column. Whereas the lateral support is uniquely configured, one should also consider the "placement" of the vertical support column away from a parked vehicle outside of a parking space to really capture the true nature of this invention over the prior art.

Mr. Durham's invention indirectly mounts the vertical column to a foundation as seen in Figure 10 and the column support is clearly away from the parking space as shown in patent drawing Figure 10 does not rely on the exactness of the lateral placement of the vertical support to only on the side of the parking space. The lateral placement of vertical column support can readily be placed in front of a vehicle and still retain the unique placement of this invention as unobtrusively placed in a parking lot.

Also, Mr. Durham's patent Figure's 1 and 10 application (11,438,195) shows a borderline of safety by showing a Demarcation line (parking stripe) separating the parked vehicle from the lateral-vertical structural support just to emphasize the region or distance between the vertical support and the motorcars side door panel for safety borderline reasons. Clearly, Dinwiddie's patent shows a vertical support in the center of his ornamental shade design which is evidently "obstructive" in comparison to Mr. Durham's lateral-vertically claimed support column placed away from the center of the roof and laterally placed upfront and laterally centered away from a vehicle's side door or front bumper as shown and compared to Dinwoodie's design patent which is not laterally placed and/or upfront away from a vehicle's side door or front bumper and is obstructive.

In patent Figure 10 application (11,438,195) Mr. Durham's invention is evidently distinguishable and "unobstructive" compared to the prior art alone and in combination from my professional opinion, as one skilled in the art. I believe that this lateral-vertical column supports placement and configuration is a unique utilitarian feature and separate's Mr. Durham's system

and method patent claims 1 and 2 from the prior art and is not at all inherently obvious or combinations or prior art, as stated by the patent examiner respectfully in his prior art.

Furthermore, after reviewing Dinwoodie's which is obstructive or would be obstructive (if cited correctly) and cannot be relied upon as prior art because they essentially do not teach an "unobstructive" Energy Generating Shelter System and Method that allows an automobile "unobstructive" ingress or egress from a parking space as outlined and uniquely claimed by Mr. Durham's invention and disclosure.

Lane's design patent does not show or teach an "unobstructive" carport with a vertical-lateral column support because in the middle of Lanes' canopy there is a structural support that makes this design obstructive when placed in the middle of the carport making that canopy very obstructive in comparison to Mr. Durham's unobstructive carport which is laterally placed away from the vehicle underneath the carport and the parking space.

I would like to make clear to the patent examiner that any previously cited patents by the patent examiner regarding solar panels alone and in combination, with cited prior art carports, shade devices or shelters in relation to application (11,438,195) is not inherently obvious to combine art and then come to the conclusion that anyone skilled in the art can accomplish what Mr. Durham's unique invention accomplishes when laterally placing and configuring his uniquely positioned vertical column support away from the parking space.

I also have reviewed Mr. Durham's scale model pictures dated 1997-2000, showing his Energy Generating Shelter System and Method scale model. Mr. Durham's scale model clearly shows a photovoltaic canopy and supporting structure laterally placed away from a parked vehicle unobtrusively. Mr. Durham's scale model clearly shows how his photovoltaic canopy and lateral-vertical support column can be placed in relation to a parked vehicle underneath the canopy, unobtrusively and/or located in front of a vehicle bumper area or on the side of a vehicle door area and still be laterally placed and unobtrusive as seen in patent Figures 1 and 10.

Additionally, as one skilled in the art, I do not find that Mr. Durham's invention is obvious, regardless of the laterally placed vertical support column's configuration or placement, in that this invention (11,438,195) is not a combination of any of cited the prior art or combinations of obvious conclusions, in order to create and define Mr. Durham's unobtrusive use of his carport in a parking lot used as a canopied, photovoltaic shelter and connected to the electrical grid.

Accordingly, photovoltaic canopied carports are not inherently commonly known in the arts especially, when this application was filed. As a Structural Engineer, I am very familiar with commercial carport structures and do not anticipate that solar panels and carport combinations and connecting to the electrical grid is a commonly known practice from one skilled arts. I also do not believe that by considering solar panels mounted to a house and then connected to the electrical grid (as cited by the examiner in his example) qualifies as prior art and then associating Mr. Durham's carport does the same unobtrusively.

Likewise, Dinwoodie's invention is not unobtrusive and does not teach this aspect as an unobtrusive structural configuration and placement element in his design patent and does not teach unobtrusive access or egress of a vehicle under it's "obtrusively" placed

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vertical structural support and canopy and is not obvious in comparison to Mr. Durham's unobstructive teaching and use of a photovoltaic carport in a parking lot, as shown in Figure's 10 respectively.

The reasoning or association of an unobstructively mounted (Energy Generating Shelter System and Method) as disclosed by Mr. Durham's invention teaches an unobstructive layout which the other patent's cited do not teach unobstructively used as a carport for the ingress and egress of a vehicle over a sheltered area or parking space with a photovoltaic roof; and none of the prior art in this light teaches or suggests this in the examiner's cited art or original argument's and that none of the other carport's cited by the examiner teaches an "unobstructive" element, in view of Mr. Durham's invention and carport layout when used commercially.

The combination of the unobstructive carport structure in (11,438,195) and the roof mounted solar panels connected to the electrical grid in "not" inherently obvious or commonly known in the arts (for unobstructive carports), as I can attest to. This assumption would be incorrect on the examiner's part to come to this conclusion (as I myself am one skilled in the art) to combine other carport's that are obstructive or clearly not "defined" as unobstructive and come to his conclusion and would be an incorrect assumption on the examiner's part, from my professional opinion.

I have also reviewed the Saunders patent, and see that there is no mention of a laterally placed vertical-lateral upright structural support that's unobstructive and laterally placed "away" from the parking space so as to protect an automobile from safe ingress or egress in a parking lot. Saundier's patent does teach or accomplish what Mr. Durham's patent (11,438,195) does, when laterally placed as a permanent structure with demarcation lines as shown in Figure 10.

Mr. Durham's disclosure and patent Figures (10 and 1) clearly indicate and show demarcation borders (parking stripes), clearly differentiating and teaching a laterally placed column safely placed away from a vehicle on the side and upfront of the parking space covering and protecting more than one vehicle as shown in Figure 10, used in a parking lot.

I have also reviewed the Kowalski patent and noticed that this design is connected to a wall. Mr. Durham's patent clearly is not connected to a wall and any combination of this device with Mr. Durham's would not be an indicator of combinatorial prior art. As disclosed, I find that Mr. Durham's invention is quite unique and is not obvious or any combination's of any of the prior art, as I can attest to this fact, as one skilled in the art.

I find none of the prior art alone or in combination is obvious over Mr. Durham's Patent Pending Energy Generating Shelter System and Method (11,438,195).

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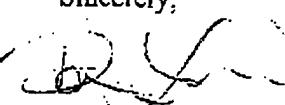
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Patents considered in this professional opinion:

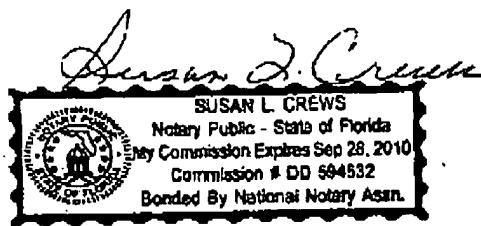
1. *Dinwoodie*
2. *Lane*
3. *Kowalski*
4. *Scale Models*
5. *Saunders*

If you have any questions concerning this determination, please do not hesitate to contact me.

Sincerely,



Douglas V. Lucas, P.E.
Structural Engineer



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